

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer NM 57259.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Known Geologic Structure -- Oil and Gas Leases: Noncompetitive Leases

Lands within a known geologic structure of a producing oil or gas field may only be leased by competitive bidding pursuant to 43 CFR 3120. A noncompetitive oil and gas lease offer filed before the lands were determined to be within a known geologic structure but not accepted by the United States on the date of determination is properly rejected.

APPEARANCES: George A. Donnelly, Jr., pro se.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

George A. Donnelly, Jr., appeals from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated March 1, 1984, which rejected noncompetitive oil and gas lease offer NM 57259. The decision states:

In May 1983, we offered for simultaneous oil and gas leasing Sec. 20, SE 1/4 SE 1/4, T. 23 S., R. 29 E., NMPM, containing 40.00 acres (Serial Number 57259). These lands are now within an undefined Known Geological Structure [KGS] and may be leased only through competitive bidding pursuant to Title 43 CFR 3120.

The subject lands were made available for simultaneous lease applications as a part of BLM's May 1983 simultaneous oil and gas lease listing. Donnelly's application was selected with first priority for this tract in the May 1983 drawing, his application was assigned serial number NM 57259, and lease forms (Form 3110-2) and stipulations were sent to Donnelly on September 27, 1983. On October 7, 1983, Donnelly filed the signed lease

offer forms and the first year's rental with BLM, in response to BLM's September 27, 1983, decision allowing him to do so. 1/

Appellant's notice of appeal, filed March 12, 1984, states:

In May 1983 when Section 20, SE/4 SE/4, T23S, R29E NMPM, containing 40.00 acres (Serial Number 57259) was offered on simultaneous oil and gas lease filing, it was not within a Known Geological Structure. Therefore, I appeal the decision to reject the issuance of the lease on the grounds that the lease is now on a Known Geological Structure.

[1] The reason for appellant's appeal is that the tract was determined to be within the boundaries of a KGS after he filed his executed offer to lease. A lease is not issued until signed by the authorized officer. The signature of the authorized officer constitutes acceptance of the lease offer and the issuance of the lease by the United States. 43 CFR 3112.6-2. The lease forms signed by appellant were never executed by an authorized officer. Thus, there was no lease at the time of the KGS determination.

Under 30 U.S.C. § 226(b) (1982), land within a KGS of a producing oil and gas field may only be leased by competitive bidding in accordance with 43 CFR Part 3120. When land is determined to be within a KGS, either before a noncompetitive offer is filed or while such an offer is pending, the noncompetitive offer must be rejected. Stephen M. Naslund, 79 IBLA 252 (1984); Kenneth L. Hanlin, 70 IBLA 115 (1983). An applicant for a noncompetitive oil and gas lease who challenges a determination that certain lands are situated within a KGS has the burden of showing that the determination is in error. Stephen M. Naslund, *supra* at 253. Appellant has not offered any evidence of error.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is affirmed.

Will A. Irwin
Administrative Judge

We concur:

Gail M. Frazier R. W. Mullen
Administrative Judge

Administrative Judge

1/ While it is not completely clear from the record, it appears that these forms were returned to Donnelly on Feb. 9, 1984, with instructions to "date lease forms and stipulations and return as soon as possible." The lease forms and stipulations are dated Feb. 10, 1984.